IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Arbitration Case No.293 of 2006

Date of Decision: April 20, 2007

Satish Rathi **....Petitioner**

through Mr. P.S.Rana, Advocate

v.

State of Haryana and others **....Respondents**

through Mr.Ravinder Malik, Advocate

CORAM: HON'BLE MR.JUSTICE VIJENDER JAIN, CHIEF JUSTICE

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE (ORAL)

The arbitration clause between the parties is admitted. The petitioner invoked the arbitration clause by way of letter dated 24.8.2005 which is not denied by the respondents. On failure of the respondents to supply the vacancy in terms of the arbitration clause, the petitioner filed a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short, `the Act') on 25.10.2005. After receiving the notice of the said petition, the respondents had appointed the Sole Arbitrator on 10.1.2006.

Learned counsel for the respondents has contended that in view of the appointment of the Arbitrator, in terms of the arbitration clause, the arbitration application under Section 11(6) of the Act has become infructuous. On the other

hand, learned counsel for the petitioner has contended that limitation for supply of vacancy had expired on 23.9.2005 as the arbitration clause was invoked on 24.8.2005 but the respondents did not appoint the sole Arbitrator within stipulated period to adjudicate upon all the disputes between the parties and, therefore, the petitioner has been compelled to file arbitration application under Section 11(6) of the Act in this Court. Only on the date of receipt of notice of the arbitration application, the Arbitrator had been appointed by the respondents.

I have given careful consideration to the arguments advanced by learned counsel for the parties. In view of the fact that the Arbitrator was not appointed within the stipulated period, the respondents have lost the right to supply the vacancy in terms of the arbitration clause, therefore, the argument advanced by the counsel for the respondents that the Arbitrator was appointed on 10.1.2006 is without any merit.

In view of the matter and with the consent of the parties, I appoint Justice S.K.Jain (retired Judge of Punjab & Haryana High Court) as the sole Arbitrator to adjudicate upon all the disputes between the parties.

The Arbitrator shall fix his own fee.

The intimation of appointment be sent to the Arbitrator.

Parties to appear before the Arbitrator on 5.5.2007 at 4.00 P.M..

Petition stands disposed of.

(VIJENDER JAIN)
CHIEF JUSTICE

April 20, 2007

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